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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,917	05/15/2001	James A. Brownlee	LCB 317	9463

7590 07/28/2003

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/28/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,917

Applicant(s)

BROWNLEE ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,8,9,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 2,5,7 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 28, 2003 has been entered.

Response to Amendment

The indication of allowable subject matter in claims 7, 8 and by applicant's amendment, claims 21 and 22, is withdrawn upon further review of the reference to Caveney (US 4001898). Rejections based on the new review of the reference follow. The inconvenience to applicant is regretted.

Election/Restrictions

Applicant's election without traverse of Group I comprising claims 1-9 in Paper No. 5 is acknowledged.

Claims 10-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 5. New claims 18-22 are drawn to Group I.

Specification Objections

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The specification is objected because it is unclear what the difference is between the strap width B first used on page 3, line 14 and the strap width B₁ first used on page 4, line 10. The two appear to be the same since there is no distinction made between the two. It appears that only one designation should be used to avoid confusion. The incorporation by reference of another application by attorney docket number is objected to since the serial number must be used. Updating the information to serial number is needed. Correction is required.

Drawing Objections

The drawings are objected to because the dimension B in figure 10 appears to describe the same width as the dimension B₁ in figure 15. The two appear to be the same since there is no distinction made between the two. It appears that only one designation should be used to avoid confusion. Correction is required. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1 and 18-21 are objected to because the term "the neck area" (line 5 of each of claims 1 and 19-21 and line 6 of claim 18) lacks clear antecedent basis and -- the neck section-- is suggested. The use of the symbols B and B₁ to denote the strap width (claim 1, lines 4, 6, 9; claim 18, lines 4, 7, 10; claim 19, lines 4, 6, 9; claim 20, lines 4, 6, 9; claim 21, lines 4, 6, 9) appears to describe the same strap width since no

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distinction is made between the two. It appears that only one designation should be used to avoid confusion. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-9 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 describes the neck section as having a "substantially uniform thickness T_2 across the width E' that is thinner than T_1 " (lines 10-11) wherein E' is the maximum width of the neck section. This is the location adjacent the cable tie head. Claims 4-9 require a channel. The description of those species with a channel did not include the statement that even with a channel the thickness of the strap is substantially uniform and less than the thickness of the intermediate section. The specification indicates that the thickened sections 136, 138 that define the channel can have a thickness substantially the same as the thickness of the intermediate section of the strap (page 8, lines 3-4). Figure 11 has no channel and is described by the above quoted passage from claim 1. Therefore, the description of the species including the channels as described in claim 4-9 with the neck section

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having a substantially uniform thickness T_2 across the width E' that is thinner than T_1 lacks antecedent basis in the application as filed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 8, 9, 21, and 22 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Caveney (US 4001898).

Caveney (figures 3, 4, 6, 10) teaches cable tie structure comprising a strap including a first end forming a neck section 28, a free end opposite the first end, and an intermediate section 24 between the first end and the free end, the intermediate section having a predetermined width and thickness defining a predetermined cross-sectional area as shown in figure 4 by the side rails 30'. The cable tie head 26 is secured to the neck section 28 and includes a strap accepting channel containing a locking device 48. The neck section 28 has a width that transitions from the width of the intermediate section 24 to a maximum width that is the same as the width of the cable tie head 26 as shown in figure 6. The neck section 28 has a substantially uniform thickness at its widest area 40 where it joins the cable tie head. The thickness is substantially uniform in that while there may still be a small recess in the central section the thickened areas are very close to the thickness of the central area. This thickness is thinner than the

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side rails 30' but has a cross-sectional area that is at least substantially equal to the cross-sectional area of the intermediate section of the strap defined by the side rails 30' as stated in column 3, lines 35-40 and claim 12 of the patent:

portion of the strap segment extending through the head shown in FIG. 9. The transitional portion 28 includes a joint 40 of reduced cross-sectional area (see FIG. 3) but which preferably has a slightly greater cross section than the combined cross section of pre-stretched side rails 30' as shown in FIG. 4. As will

12. A tie as set forth in claim 1 wherein said strap and said head are joined by a transitional portion which has a cross section greater than the cross section of said rails.

By the neck section having a greater cross-sectional area than of the intermediate section defined by the stretched rails 30', the neck section inherently has a tensile strength at least equal to the tensile strength of the intermediate section defined by the stretched rails 30'.

As to claim 3, figure 6 shows the strap accepting channel 38 perpendicular to the intermediate section 24 of the strap.

In regard to claims 4, 6, 8, 9, 21, and 22, the neck section 28 has thickened sections diverging from right to left in figure 6 thereby increasing in width from right to left and due to the linear construction of the thickened side areas, the increase in the width of the channel increases proportionally to the increase in the width of the neck section. These thickened areas are on the outside of the strap when the device is used.

Response to Argument

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The arguments filed April 28, 2003 are moot in view of the new grounds of rejection.

Allowable Subject Matter

Claims 2, 5, and 7 are objected to as depending from a rejected base claim, but would be allowable if rewritten in independent form including the subject matter from which they depend and correcting the above noted claim objections.

Claims 18-20 would be allowable if rewritten to overcome the objections to the claims noted above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R Brittain

Primary Examiner

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JRB

July 25, 2003